S.B.Criminal Revision Petition No.372/2007

Kailash Singh vs. Ramveer Singh & Anr.

Date of the Order: September 27,2007

HON'BLE MR.JUSTICE G.S.SARRAF

Mr.Anil Upman for petitioner.
Mr.J.R.Bijarnia on behalf of
Mr.A.K.Gupta for respondent No.1.
Mr.Ashwani Kumar Sharma P.P.

Reportable

This criminal revision petition by the complainant petitioner is directed against the order dated 2.11.2006 passed by Additional District and Sessions Judge (Fast Track) No.2, Bharatpur whereby the accused respondent No.1 Ramveer Singh has been held to be juvenile in conflict with law.

The relevant facts giving rise to this revision petition in brief are that Additional District and Sessions Judge (Fast Track) No.3 by order dated 16.4.2003 held the respondent No.1 as juvenile and directed the Station House Officer, Police Station Sewar to file a separate charge sheet against him for offences under Sections 306, 376, 457 IPC in FIR No.288/2002 Police Station Sewar and directed the respondent No.1 also to appear before the Juvenile Board, Bharatpur on 8.5.2003. The present petitioner challenged this order by filing a revision petition before this Court. Learned

Single Judge of this Court by order dated 22.8.2006 allowed the revision petition, set aside the order dated 16.4.2003 passed by Additional District and Sessions Judge (Fast Track) No.3, Bharatpur and remitted the case to the aforesaid court with the direction to conduct proper and due inquiry as per the provisions of Section 49 of the Juvenile Justice (Care and Protection of Children) Act, 2000 keeping in view the provisions of Rule 22 (5) of the Rajasthan Juvenile Justice (Care and Protection of Children) Rules, 2002 and directed the inquiry to be conducted within a period of one month. It seems that the case thereafter was transferred from the court of Additional District & Sessions Judge (Fast Track) No.3 to the court of Additional District & Sessions Judge (Fast Track) No.2. Additional District & Sessions Judge (Fast Track) No.2 held the inquiry as per the directions of this Court and recorded the statements of Rajendra Singh Head Master, Government Upper Primary School, Moondota (CW.1),Kunwar Singh, father of the respondent No.1 (CW.2), Dr.Baney Singh (CW.3) and the present petitioner Kailash Singh (CW.4), and after hearing the parties held the respondent No.1 Ramveer Singh juvenile in conflict with law. Aggrieved by this order, the petitioner has filed this revision petition.

I have heard learned counsel for the petitioner, learned counsel for the respondent No.1 and learned Public Prosecutor and perused the material and evidence

on record.

Relying upon the statement of Dr. Baney Singh (CW.3) and Exs.11 and 12 learned counsel for the petitioner has contended that the respondent No.1 is major and learned Additional District and Sessions Judge (Fast Track) No.2, Bharatpur has committed an error in holding the respondent No.1 as juvenile in conflict with law'.

Learned counsel for the respondent No.1 on the other hand has supported the order of the court below.

In this case, as per the school record the date of birth of the respondent No.1 is 15.8.1984. Rajendra Singh, Head Master, Govt. Upper Primary School, Moondota CW.1 has deposed that the respondent No.1 Ramveer Singh was admitted in the school in Class-III on 25.7.1992 and after completing his education up to Class-VIII, he left the school. A Transfer Certificate was issued to him in this regard on 25.6.1998. He has said that according to pages Nos.60-61 of the register Ex.1 the name of the respondent No.1 has been mentioned at Sl.No.350 and his date of birth has been recorded as 15.8.1984. He has further said that the admission form (Ex.2) was submitted by the father of the respondent No.1 and in this form also, the date of birth of the respondent No.1 is 15.8.1984. Kunwar Singh, father of the respondent No.1 (CW.2) has deposed that he filled up the form Ex.2 which bears his signatures and the date of birth of his son Ramveer Singh is 15.8.1984. In mark-sheet Ex.7,

certificate Ex.8 mark-sheet of Class-X Ex.9, transfer certificate after passing Class-X Ex.10, the date of birth of the respondent No.1 has been shown to be 15.8.1984. It is not the case of the petitioner that the admission form, mark-sheet, certificate and transfer certificate do not relate to the respondent No.1 or the entries made therein are in any way false and fabricated. The school record has been maintained regularly and in the discharge of official duty. The register maintained in the school is admissible in evidence to prove the date of birth of the person concerned in terms of Section 35 of the Indian Evidence Act as the date of birth is recorded in the school register by the concerned authority in the discharge of his public duty. Rajendra Singh, who is the Head Master of Govt. Upper Primary School, Moondota categorically states that the father of the respondent No.1 filled up the admission form and Kunwar Singh, father of the respondent No.1 CW.2 is fully corroborative of the statement of Rajendra Singh CW.1 and of the entries made in the school register. As against this evidence, Dr. Baney Singh CW.3 has proved Exs.11 and 12 and has stated that the age of the respondent No.1 is between 25-40 years (a difference of 15 years).

I am of the view that the opinion of the medical expert and the age mentioned in the voter list cannot be regarded to be conclusive. Medical evidence regarding the age can be considered only after rejecting the date of

birth mentioned in the school record. Here in this case, the school record has been maintained regularly and in the discharge of official duty and there is absolutely nothing to doubt the school record. As such learned court below has rightly come to the conclusion that the date of birth of the respondent No.1 is 15.8.1984 and since the occurrence took place on the night falling between 1.8.2002 and 2.8.2002 therefore, on the date of occurrence the respondent No.1 was a juvenile in conflict with law.

There is no ground for interference in the impugned order.

Consequently, the revision petition stands dismissed.

(G.S.Sarraf),J.

Bairwa